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Attorneys for Defendant
Navigators Insurance Company

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNIFOIL CORPORATION,

Plaintiff,

v.

SOUTHEAST PERSONNEL LEASING,
INC., LION INSURANCE COMPANY,
NAVIGATORS INSURANCE
COMPANY, INC., and ZURICH
AMERICAN INSURANCE COMPANY,

Defendants.

Civil Action No.:

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PLEASE TAKE NOTICE that Defendant Navigators Insurance Company (“Navigators”), incorrectly identified in the Complaint as “Navigators Insurance Company, Inc.,” hereby removes the above entitled action from the Superior Court of New Jersey, Essex County, to the United States District Court for the District of New Jersey, pursuant to 28 U.S.C. §§ 1332(a)(1), 1441, and 1446 and alleges as follows:

1. Pursuant to Local Rule 10.1(a), Navigators states that, based on information and belief, the parties to this action and their addresses are as follows. Plaintiff Unifoil Corporation (“Plaintiff” or “Unifoil”) has its principal place of business at 12 Daniel Road East, Fairfield,

New Jersey. Defendant Southeast Personnel Leasing, Inc. (“Southeast”) has its principal place of business at 2739 U.S. Highway 19 North, Holiday, Florida 34691. Defendant Lion Insurance Company (“Lion”) has its principal place of business at 2739 U.S. Highway 19 North, Holiday, Florida 34691. Defendant Navigators has its principal place of business at One Penn Plaza, New York, NY 10119. Defendant Zurich American Insurance Company (“Zurich”) has its principal place of business at 1299 Zurich Way, Schaumburg, Illinois 60106.

2. Plaintiff brought this action against Navigators and others in the Superior Court of the State of New Jersey, Essex County, by filing a Complaint on November 29, 2017, which was docketed as case number ESX-L-008930-17 (Exhibit 1 (enclosing Summons and Complaint)).

3. The Commissioner of the New Jersey Department of Banking and Insurance accepted original service of process of the complaint in this action on behalf of Navigators on December 4, 2017. *Id.*

4. The basis for removal is diversity of citizenship. Pursuant to 28 U.S.C. § 1332(a)(1), United States District Courts have jurisdiction over all actions where the matter in controversy is in excess of \$75,000, exclusive of interest and costs, and where the action is between citizens of different states. As explained more fully below, this is an action seeking insurance coverage and indemnification. Plaintiff asserts that it is an insured under certain insurance policies, including a directors and officers liability insurance policy issued by defendant Navigators. Plaintiff, having been sued by a leased employee for a bodily injury claim in an action styled *Orlando Perez v. Arrow Converting Equipment, Inc.*, No. L-5061-14 (Superior Court of New Jersey, Essex County, Law Div.) (the “Underlying Action”) (Exhibit 2), now seeks coverage under insurance policies issued by Lion, Navigators, and Zurich. Plaintiff also seeks indemnification from Southeast, which leased the employee to Plaintiff. Navigators

disputes that coverage is available for the claim made by Plaintiff under any policy issued by Navigators.

5. There is complete diversity of citizenship between Plaintiff, as a citizen of New Jersey, on the one hand, and Navigators, a citizen of New York; Southeast, a citizen of Florida; Lion, a citizen of Florida; and Zurich, a citizen of New York and Illinois, on the other hand.

6. Based on the allegations of the Complaint, Unifoil is a New Jersey corporation with its principal place of business in New Jersey. (Exhibit 1, ¶ 2) Accordingly, Unifoil is a citizen of New Jersey.

7. Defendant Navigators is a corporation organized under the laws of New York with its principal place of business at One Penn Plaza, New York, New York 10119. Accordingly, under 28 U.S.C. §1332(c)(1), defendant Navigators is a citizen of New York.

8. Defendant Southeast is a corporation organized under the laws of Florida with its principal place of business in Florida. (Exhibit 1, ¶ 3) Accordingly, under 28 U.S.C. §1332(c)(1), defendant Southeast is a citizen of Florida.

9. Defendant Lion is a corporation organized under the laws of Florida with its principal place of business in Florida. (Exhibit 1, ¶ 3) Accordingly, under 28 U.S.C. §1332(c)(1), defendant Lion is a citizen of Florida.

10. Defendant Zurich is a corporation organized under the laws of New York with its principal place of business in Illinois. (Exhibit 1, ¶ 6) Accordingly, under 28 U.S.C. §1332(c)(1), defendant Zurich is a citizen of New York and Illinois.

11. The matter in controversy exceeds \$75,000. In its Complaint, Unifoil seeks insurance coverage, including both indemnity and defense costs, for the Underlying Action, as well as interest and costs of suit for its insurance coverage action. A copy of the Amended

Complaint With Jury Demand in the Underlying Action is attached as Exhibit 2. In the Underlying Action, Unifoil's leased employee claims that he was injured while working as a machine operator with Unifoil and suffered "multiple, severe, debilitating, and disabling injuries," (*id.*, ¶ 2), including "permanent consequential limitations of use of body organs and members," and "significant limitations of use of body functions or systems," and alleges that he "has in the past and will in the future be caused to suffer severe pain, anguish, and emotional distress." (*Id.*, ¶ 8) The Underlying Action also includes a claim of spoliation of evidence that would "significantly impair the plaintiff's ability to prove the probable lawsuit." (*Id.*, Eleventh Count).

12. Thus, the jurisdictional amount required under 28 U.S.C. § 1332 is satisfied.

13. Accordingly, jurisdiction over the subject matter of this case is conferred by 28 U.S.C. §§ 1332(a)(1) and 1441(a).

14. This Notice of Removal is timely. It has been filed with this Court within thirty (30) days of Navigators' receipt in "through service or otherwise, of a copy of the initial pleadings setting forth the claim for relief upon which such action or proceeding is based," as provided by 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446(a), Navigators represents that apart from the Complaint and summons, it has received no other process, pleadings, motions or orders in this action.

16. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Navigators represents that Defendants Southeast, Lion, and Zurich all have consented to this removal. *See* Exhibit 3.

17. Written notice of the filing of this Notice has been served upon Unifoil's counsel as required by law.

18. A true copy of this Removal is being filed with the Clerk of the Superior Court of New Jersey, Law Division, Essex County, as required by law.

WHEREFORE, Defendant Navigators Insurance Company requests that this action be removed from the Superior Court of New Jersey, Law Division, Essex County, to the United States District Court for the District of New Jersey, and that the United States District Court for the District of New Jersey issue such orders and process that are necessary to preserve its jurisdiction over this matter.

DATED: January 2, 2018

Respectfully submitted,

Attorneys for Defendant Navigators
Insurance Company

BY:

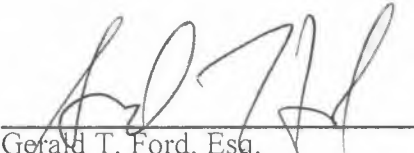

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CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I hereby certify that the manner in controversy in this action is not now known to me to be the subject of any other action pending in any other court or of any pending arbitration or administrative proceeding.



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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of January 2018, a true and correct copy of the foregoing Notice of Removal is being served via electronic mail and regular mail upon the following:

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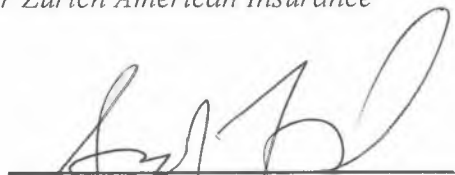
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